

WORK SESSION OF OCTOBER 11, 2005

Mayor Ganz called the meeting to order at 6:08 p.m.

PRESENT: Mayor Ganz, Deputy Mayors Etler and Weinstein, Councilmembers Caan and McCarthy(late).

ALSO PRESENT: Manager/Municipal Clerk Kwasniewski, Assistant Municipal Clerk Bojanowski and Attorney Lustgarten.

Review of Tentative Agenda - 10/18/05:

Manager/Municipal Clerk Kwasniewski stated they would be talking about the endorsing resolution during this work session. If anyone had any questions she would be happy to explain it to them. She added they would be postponing to a latter date item six regarding the Recreation Center.

Cablevision Franchise Renewal:

Manager/Municipal Clerk Kwasniewski invited Vi Etler, chairwomen of the Cable Committee. She explained they have been meeting with Gary Shaw, the representative from Cablevision, and the last thing they did was send a proposed ordinance to the Cable Committee to review. They were supposed to meet and get back to everyone. The Committee had some questions that they want to have answered.

Vi Etler, 15-12 Elmary Place, stated they went over the questions and asked if any other cable company was approached. Manager/Municipal Clerk Kwasniewski stated they have contacted other companies numerous times. She stated they have a non exclusive franchise and the other companies are not interested in coming to Fair Lawn. Mayor Ganz spoke to other Mayors who have comparable arrangements and it seems that other boroughs, except Paramus who has two companies, also have only one company.

Mrs. Etler asked about the High School and the Middle School. Manager/Municipal Clerk Kwasniewski stated they are equipped by Cablevision. There were some questions about the quality of it but part of the problem is the schools have the cable split off for numerous televisions rather than the two it was supposed to be for. Borough Attorney Lustgarten stated if is typical for the custodians to split the cables once they are put in. Borough Attorney Lustgarten added there is a max number that could be split off before the quality of service is lost. Deputy Mayor Etler stated Paramus gave a franchise to UA Cable and Cablevision of New Jersey. Mayor Ganz stated they were still there and had probably just changed names over the years.

Mrs. Etler stated Mr. Horowitz felt they did not get a direct answer on whether they contacted Direct TV and Dish Network. Mayor Ganz stated Manager/Municipal Clerk Kwasniewski stated they had and they were not interested in Fair Lawn. Borough Attorney Lustgarten stated they are negotiating a Cable Television Franchise renewal ordinance and that is not the same thing.

Mrs. Etler stated the Borough should price Optimum Online Services versus Verizon DSL and find out what Verizon's plans are for the future. She added this has to do with going to another company and seeing what they would offer. Borough Attorney Lustgarten explained Federal Law prohibits municipalities from negotiating price structures. They can get some discounts for seniors and negotiate them paying for certain services. They do

not have the authority to say they do not like the prices.

Mrs. Etler questioned the \$5,000 for studio equipment. Manager/Municipal Clerk Kwasniewski stated that was a Cablevision Studio on River Road and they would get that equipment. Borough Attorney Lustgarten stated they did not want to have a situation where some of their equipment went out and they could come back and say they have this studio but it is not really usable because equipment needs repairs but were not ready to repair it. He stated that was the genesis as to why they were offering money to repair. He added when they use their studio and equipment it would be operational, so this is an indirect help but they were not offering to put that money into the Borough.

Mrs. Etler stated the committee recommends five years for the renewal but did not believe Cablevision wanted to do that. Mayor Ganz stated they do not want to do it and they are offering a renewal based on 10 to 15 years. Borough Attorney Lustgarten stated the date has to be retroactive to the renewal date. The longer the term the more money they are willing to offer the Borough.

Deputy Mayor Etler asked what is the franchise that Cable wants, exclusive of the satellite dish but in a case such as Verizon coming in and put in their fiberoptic so by them granting a franchise what does mean to Cablevision or us. Mayor Ganz explained it will mean they have a right continue to use the cable they have put in already and the right of way they have acquired. He added it gives them the right to bill people for that and obligation to pay the Borough a portion of that around \$90,000.00. If someone else comes in they would have to lay new cable and acquire the right of way and it is a very expensive proposition. Deputy Mayor Etler stated Verizon is talking about fiberoptic for not only television but also for the computers to go online. Borough Attorney Lustgarten explained the renewal of this franchise is on a nonexclusive basis which means if any other cable company can come into Fair Lawn and use it's rights of way as long as it does not interfere with Cablevision. The non exclusive franchise has nothing to do with satellite or direct tv or any other technology that exists now or will exist in the future.

Deputy Mayor Etler asked if someone else came to town would they have to do they same thing Cablevision is doing now. Borough Attorney Lustgarten stated they would have to do the same thing. Mayor Ganz stated it is so expensive to have another company come in and put service in. Borough Attorney Lustgarten stated Verizon is trying to bypass the local authorization and get the Statewide franchise. Mayor Ganz asked if the Council would be interested in a resolution opposing Verizon's attempt at bypassing the municipality. Manager/Municipal Clerk Kwasniewski stated if they can bypass Fair Lawn the Borough would not get any franchise fees. Deputy Mayor Etler disagreed.

Mayor Ganz stated that is not spelled out clearly. He stated he would send Manager/Municipal Clerk Kwasniewski a copy of resolution regarding this matter that was sent to him. He believed this was a better idea because it would allow them to negotiate with local carriers for optima results for Fair Lawn.

Mrs. Etler recommended that the Seniors would receive a discount regardless of income. She asked members of the committee if they had any more questions.

Larry Ames, 17-04 Elliot Terrace, stated Section 8 fee it stated the word actual gross revenue and he wanted to know what that would include. Borough Attorney Lustgarten explained it was all services relating to Cable Television service to Fair Lawn. Mrs. Etler asked if that would include the whole bill. Borough Attorney Lustgarten stated it would not include taxes.

Mr. Ames questioned if the Borough had the right to audit their financial statements. Attorney Lustgarten advised him that the Borough receives financial reports from them. Mayor Ganz stated they can open the contract and renegotiate if something happens. Mr. Ames felt the whole world will be changing technically in 10 years. He was told that Cablevision's equipment is antiquated. Attorney Lustgarten stated that when they go out for long term financing they can say they have long term franchises which will allow them to upgrade their equipment.

Jerry Horowitz, 25 Godwin Avenue, asked if the Borough was encouraging talk with Cablevision to see what they may offer the Borough. Attorney Lustgarten stated they just talked with Cablevision.

Councilmember McCarthy arrived at 6:35 p.m.

Mr. Horowitz felt the Borough should see what Verizon has in store for the next 10 years. Attorney Lustgarten advised that he has not heard about Verizon coming in to the Borough and in fact, they still could. Mayor Ganz asked Manager/Municipal Clerk Kwasniewski to report back to the Council.

Mrs. Etler stated she had received her first complaint from a person on Parmelee Avenue. They live on the second floor and wanted to add additional outlets. The BPU has said that additional lines can be added. She said the landlord cannot restrict the number of outlets. She felt there should be a complaint officer.

Naming Something for John Alaimo:

Deputy Mayor Etler stated that he and Councilmember McCarthy were charged with finding somewhere to put John Alaimo's name. They suggested naming the baseball field in Berdan Grove Park.

There was a unanimous consensus to adopt the Council's recommendation to name a baseball field in Berdan Grove Park.

Mayor Ganz suggested they notify the family for their approval.

Employee End of Year Luncheon:

Manager/Municipal Clerk Kwasniewski stated it was that time of year to honor the Borough's retirees and give out service awards to the employees. The luncheon will be held on Friday, December 16th at 2:30 p.m. Mayor Ganz felt it was a good custom to follow for those who had departed and for those who are still contributing.

Council to decide and up to volunteers if they wanted to do it.

Louise Orlando stated she would appreciate if the Borough Attorney reviews the deed since it has been all over the media. The residents would have to allow the restriction to be lifted. Mayor Ganz suggested that Attorney Lustgarten look at the deed.

Closed Session:

Upon motion by Councilmember McCarthy and seconded by Councilmember Caan, the following closed session resolution was unanimously adopted at 7:01 p.m.

WHEREAS, the Open Public Meetings act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

WHEREAS, the Mayor and Council of the Borough of Fair Lawn desire to discuss Contract Negotiations and Personnel, and

WHEREAS, these matters are ones which permit the exclusion of the public from such discussions; and

WHEREAS, public disclosure of the results of these discussions shall be made relating to Contract Negotiations upon the conclusion of these matters by the Mayor and Council of the Borough of Fair Lawn within 120 days and in regard to Personnel upon formal appointment by the Borough Manager within 90 days;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Lawn that the public be excluded since these matters as set forth above are ones which permit the exclusion of the public from such discussions.

Adjournment:

Upon motion by Councilmember McCarthy and a second by Councilmember Caan, the meeting was adjourned at 7:26 p.m.

Respectfully submitted,

Marilyn B. Bojanowski, RMC
Assistant Municipal Clerk

The undersigned have read and approve the foregoing minutes.

Mayor David L. Ganz

Councilmember Allan Caan

Deputy Mayor Martin Etlar

Councilmember Owen McCarthy

Deputy Mayor Steven Weinstein